REMARKS

Claims 1-26 were pending and under consideration.

In the Office Action of March 7, 2003, claims 1-26 were rejected under 35 U.S.C. §§ 103 and/or 112, second paragraph. In response, claims 7, 10, 11, 15 and 21 have been amended, claims 1-6, 8, 9, 12 and 13 have been cancelled, and claims 27-30 have been added to replace cancelled claims 8, 9, 12 and 13.

The Examiner rejected claims 1-26 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

In response, claims 7, 11, 15 and 21 have been amended and the typographical errors have been corrected per the Examiner's suggestions. Also, the word "de-aerating" has been changed to "deaerating" which means "to remove air or gas." See WEBSTER'S ENCYCLOPEDIC UNABRIDGED DICTIONARY OF THE ENGLISH LANGUAGE, p.371 (1989 ed. 1989) or available at http://www.m-w.com/home.htm. Applicants respectfully submit the objection has been overcome and request that it be withdrawn.

The Examiner also rejected claims 1-26 under 35 U.S.C. 103(a) as being unpatentable over the cited references. Applicants respectfully traverse this rejection.

Claims 7 and 15 recite a method for producing a positive electrode material active comprising of a mixing step, a deaerateing step and a sintering step. Claims 11 and 21 recite a method for producing a non-aqueous electrolyte secondary battery comprising of a mixing step, a deaerating step and a sintering step.

In contrast, the cited references disclose an active material containing the formula $LiMMePO_4$ for lithium batteries (JP 11-25983), a transition metal containing PO_4 as a component of an electrode (WO 97/40541) and a method of making a lithium compound by mixing and heating the starting materials (Barker et al. US Patent No.: 6,528,033 B1).

However, none on the cited references provides for a deaerating step in between a mixing and a sintering step.

The deaerating step prevents the 3d transition metal M in the synthesis starting material from being oxidized by the residual oxygen. This yields single-phase $Li_xM_yPO_4$ free of impurities. The deaerating step removes air contained in the precursor in preparation of the positive electrode active material, and this in turn prevents impurities forming in the active material or the battery before the sintering step. (Spec. page 7).

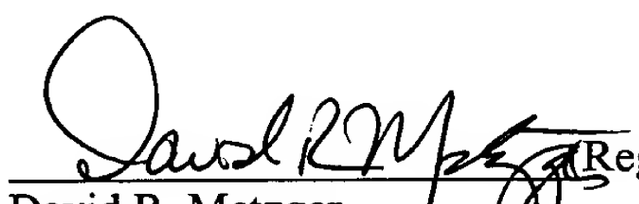
Because the cited references do not fairly disclose or suggest the presently claimed subject matter, they do not render the present invention obvious under §103(a).

Applicants respectfully submit this rejection has been overcome and request that it be withdrawn.

For at least the foregoing reason, claims 7, 10, 11 and 14-30, are patentable, and the application is in condition for allowance. Notice to that effect is requested.

Respectfully submitted,

SONNENSCHEIN NATH & ROSENTHAL



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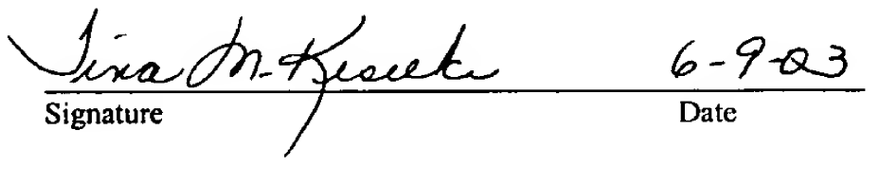

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